

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

MEMORANDUM AND ORDER

This matter is before the Court upon review of the amended complaint [Doc. #10] under 28 U.S.C. § 1915. The Court believes that, although plaintiff may be able to assert a claim based on the denial of his Constitutional rights, he has failed to state a claim upon which relief may be granted at this time, because the amended complaint is silent as to whether he is suing defendants in their official and/or individual capacities.

Taking into consideration the fact that plaintiff is proceeding pro se and in forma pauperis, the Court will instruct him to file a written supplement to his amended complaint, in which he simply states the capacity (i.e., official capacity, individual capacity, or both individual and official capacities) in which he is suing each of the named defendants. *See Alexander v. Hedback*, 718 F.3d 762, 766 n.4

(8th Cir. 2013)(to sue a state actor in his or her individual capacity, "a plaintiff must expressly and unambiguously state so in the pleadings, otherwise, it will be assumed that the defendant is sued only in his or her official capacity"). Plaintiff is advised that he must sign the supplement to the amended complaint.

In accordance with the foregoing,

IT IS HEREBY ORDERED that the Clerk shall not issue process or cause process to issue on the amended complaint at this time.

IT IS FURTHER ORDERED that plaintiff shall file a written supplement to his amended complaint within thirty (30) days from the date of this Order, stating whether he is suing the named defendants in their official capacity, individual capacity, or both individual and official capacities, in accordance with the specific instructions set forth above.

IT IS FURTHER ORDERED that plaintiff's failure to supplement his amended complaint in accordance with this Court's instructions may result in the dismissal of this action, without prejudice and without further notice to him.

Dated this 23rd day of January, 2015.



UNITED STATES MAGISTRATE JUDGE